

Serial No. 09/914,279

REMARKS:

Status of the Claims

1-6, 8-12, 14-50 and 55-70 are pending herein.

Claims 1-6, 8-12, 14-33, 50, 55-68 and 70 have been examined by the Examiner.

Claims 34-50 and 69 have been withdrawn by the Examiner.

Claims 1-3, 9, 10, 19-21, 62, 64 and 67 are rejected.

Claims 4-8, 11, 12, 14-18, 22-33, 50-61, 63, 65, 66 and 68 are objected to.

Of these objected to claims, claims 4, 5, 22 have been amended herein merely to incorporate base and any intervening claims to ensure that they do not depend upon a rejected base claim. Entry of these amendments is therefore requested.

The claim dependency of objected to claims 27, 30, 33 has been amended herein to ensure that they do not depend upon a rejected base claim. Entry of these amendments is therefore requested.

The status of claim 70 is unclear, but believed to be allowable for the reasons set forth below.

Claim Objections

Withdrawal of the objection to claim 62 is noted with appreciation.

Claim rejection under 35 USC § 112, first paragraph

Withdrawal of the rejection of claims 1-6, 8-12, 14-26, 55-68 and 70 under 35 USC § 112, first paragraph, is noted with appreciation as well.

Claim rejection under 35 USC § 102

Claims 1-3, 9, 10, 19-21, 62, 64 and 67 continue to be rejected under 35 USC § 102 as being anticipated by Hara et al., *Proc. Natl. Acad. Sci. USA*, Vol. 94, pp. 14547-14552 (Hara). This rejection is traversed.

As an initial matter, it is noted that claims 55-61 have not been rejected in view of the prior art and in fact are objected to as being dependent upon a rejected based claim. Claims 62, 64 and

Serial No. 09/914,279

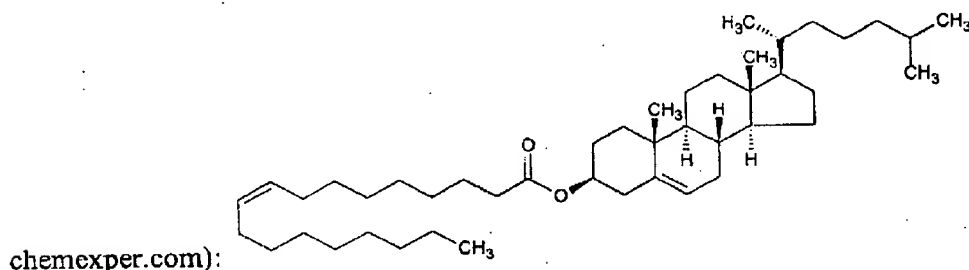
67, which depend from one or more of objected to claims 55-61, continue to be rejected in view of the prior art. It is not believed that dependent claims 62, 64 and 67 can be properly rejected as anticipated by the prior art, when base claims from which they depend (e.g., claims 55-61) are allowable in view of the prior art. Applicant respectfully requests that claims 62, 64 and 67 be properly classified as allowable over Hara.

As noted in response to the non-final Office Action mailed November 30, 2006, according to the procedure of Hara, negatively charged DNA was first complexed with a cationic lipid containing a quaternary amine head group (i.e., TC-Chol, 3-b-[N-(N9,N9,N9-trimethylethane)carbamoyl]-cholesterol). See Abstract and page 14548. The resulting hydrophobic complex was extracted by chloroform and then incorporated into reconstituted chylomicron remnant particles (RCR), which are composed of olive oil (a lipid), L- α -phosphatidyl choline (a phospholipid), L- α -lysophosphatidyl choline (a phospholipid), and cholesteryl oleate (a lipid). *Id.*

It was further noted that each of the above species is either charged or a lipid, and that none of the above is a non-ionic detergent as required by claim 1.

The Office had stated in the non-final Office Action mailed November 30, 2006 that the limitation of a non-ionic detergent is met by cholesteryl oleate.

Applicant responded by pointing out the cholesteryl oleate is actually a lipid, and not an emulsion stabilizer. This is clear from the structure of cholesteryl oleate (downloaded from



Further evidence that cholesteryl oleate is a lipid, rather than an emulsion stabilizer, was provided based on two attached references (a) D.L.H. Rail et al., "Differential Contributions of Major Lipid Components of Atheroma to Outcome of Cerebral Atheroembolism," *Stroke*, Vol. 12, No. 4, July-August 1981, 445-453, and (b) J.M. Smaby et al., "Properties of cholesteryl oleate and triolein in mixed monolayers at the air-water interface," *Journal of Lipid Research*, Volume 19, 1978, 325-331. It was further pointed out that many other articles referring to cholesteryl oleate (or its synonym cholesterol oleate) as a lipid can be found, for instance, by searching PubMed at nih.gov. As one

Serial No. 09/914,279

example, see, e.g., the Abstract of T. Takino et al., Biol Pharm Bull. 1994 Jan;17(1):121-5 which refers to cholesterol oleate as "highly lipophilic".

The Examiner has responded by first correctly noting that, as defined by applicant, the term "detergent" to "includes surfactants and emulsion stabilizers". The Examiner then, however, concludes that cholesteryl oleate "can be considered an emulsion stabilizer." The Examiner, however, has not put forward any evidence in support of his conclusion that cholesteryl oleate, which is a lipid, can function as an emulsion stabilizer. Emulsions stabilizers are typically surfactants, with both hydrophobic and hydrophilic portions. Lipids alone are not effective emulsion stabilizers, since they do not have this structure, although they may contribute to stability if surfactants are also present. Due to its highly lipophilic nature, it is not believed that cholesteryl oleate can be considered an emulsion stabilizer, and there is no evidence of record that would support such a conclusion.

For at least the above reasons, claim 1, and claims 2-3, 9, 10, 19-21 depending therefrom, are patentable over Hara.

Claims 62, 64 and 67 are also patentable over Hara for the reasons set forth above with respect to claim 1. Moreover, claims 62, 64 and 67 are further patentable in view of the fact that objected to claims 55-61 from which these claims depend have not been rejected over Hara.

Reconsideration and withdrawal of the rejection of claims 1-3, 9, 10, 19-21, 62, 64 and 67 under 35 USC § 102 are therefore requested.

Claim Objections

Claims 4-8, 11, 12, 14-18, 22-33, 50-61, 63, 65, 66 and 68 are objected to as being dependent upon a rejected based claim.

Of these, claims 7, 51-54 were previously cancelled, and claim 50 is withdrawn.

Of the remainder, claims 4-6, 8, 11, 12, 14, 22, 23, 25, 55 and 56 are in independent form and are not dependent from a rejected based claim. Claims 15-18, 24, 26-33, 57-61, 63, 65, 66 and 68 depend directly or indirectly from claims that are in independent form and are not dependent from a rejected based claim.

Thus, it is believed that claims 4-6, 8, 11, 14-18, 22-33, 55-61, 63, 65, 66 and 68 are in condition for allowance.

Serial No. 09/914,279

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It is further noted that (a) claim 62 depends from any of objected to claims 55-61, which are not dependent upon a rejected base claim, (b) claims 64 and 70 depend from claim 62, which is not dependent upon a rejected base claim, and (c) claim 67 depends from claim 64, which is not dependent upon a rejected base claim. Thus it is believed that claims 62, 64, 67 and 70 are also in condition for allowance.

CONCLUSION

It is respectfully submitted that all claims are presently in condition for allowance. Should the Examiner be of the view that an interview would expedite consideration of the application, request is made that the Examiner telephone the Applicants' attorney at (703) 433-0510 in order that any outstanding issues be resolved.

If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

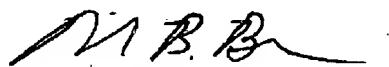
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Respectfully submitted,

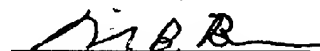


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